

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

SIXTA GLADYS PEÑA MARTINEZ <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:18-cv-01206-WGY
)	
ALEX M. AZAR II, Secretary, United States)	
Department of Health and Human Services,)	
in his official capacity <i>et al.</i> ,)	
)	
Defendants.)	
)	

DEFENDANTS' MOTION TO EXTEND ADMINISTRATIVE STAY

Defendants hereby respectfully request the Court to extend the present administrative stay in this case for twenty-five (25) days, and state as follows:

1. On August 4, 2020, this Court entered summary judgment for Plaintiffs, and issued permanent injunctive relief extending to the entire population of the Commonwealth of Puerto Rico. Findings of Fact, Rulings of Law, and Order, ECF No. 97, at 69-70. The Court administratively stayed the injunction, except as to the named plaintiffs in this case, for 60 days. *Id.* at 70.

2. The determination whether to appeal a district court decision is entrusted by law to the Solicitor General of the United States. *See* 28 C.F.R. § 0.20(b).

3. A timely notice of appeal in this case was due by October 5, 2020. *See* 28 U.S.C. § 2107(b) (allowing 60 days for filing a notice of appeal when the federal government is a party). However, in this case, the Office of the Solicitor General granted authorization to appeal, and to seek a stay pending appeal, on an expedited basis. Defendants therefore filed their notice of appeal on September 11, 2020, almost a month prior to the statutory deadline. *See* Notice of

Appeal, ECF No. 101.

5. Defendants filed their motion for a stay pending appeal promptly after receiving authorization to do so, less than one week after filing their notice of appeal. *See* ECF No. 102.

6. Furthermore, the justification presented in support of Defendants' motion for a stay pending appeal is based in significant part on the filing of the United States' petition for certiorari in *United States v. Vaello-Madero*, No. 20-303 (S. Ct.), on September 4, 2020.

7. Additionally, the Social Security Administration, U.S. Department of Health and Human Services, and U.S. Department of Agriculture required time to calculate the extremity of the irreparable harm that would result in the absence of a motion for a stay pending appeal, and to detail these harms in affidavits to be filed with the Court.

8. Under this Court's Local Rules, Plaintiffs' response to the motion to stay is due within 14 days, on September 30, 2020, and Defendants' reply in support is due 7 days later, on October 7, 2020. Local Civ. R. 7(b), (c).

9. Because the administrative stay in this case presently expires on October 5, Defendants respectfully request a 25-day extension of the stay, until October 30, 2020, to allow the parties time to brief, and the Court to rule on, Defendants' motion for a stay pending appeal.

10. Extending the present administrative stay for this short period of time will merely maintain the status quo, and will not result in any substantial prejudice to any party. This extension is necessary to allow for the adjudication of Defendants' motion for a stay pending appeal.

WHEREFORE, Defendants respectfully request that their motion for a 25-day extension of the present administrative stay be granted. A proposed order is attached hereto.

Dated: September 16, 2020

Respectfully submitted,

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/s/ Daniel Riess
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will automatically send notifications of this filing to all attorneys of record.

/s/ Daniel Riess
Daniel Riess